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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicant: Patrice L. Scheib

Serial No.: 09/824,276

Examiner: Hansen, Colby M.

Filed: April 2, 2001

Group Art Unit: 3682

Title: FIRST GEAR/REVERSE GATE INDICATOR SWITCH

Mail Stop Appeal Brief-Patents  
Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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**REPLY BRIEF**

Sir:

Responsive to the Examiner's Answer dated January 13, 2004, please consider the following remarks.

**REMARKS**

In the Examiner's Answer, the Examiner asserted that "it would have been obvious to have modified Reynolds, specifically the internal structure of the shift indicator mechanism acted on by the plunger 144, with only the mechanical attributes of the shift indicator system of Jones, specifically the plunger 110 having an arcuate surface 122, and shift sensor mechanism 132, 138" (p. 3). Appellant respectfully disagrees.

The Examiner has not provided sufficient reasons explaining why there is a "clear motivation to modify Reynolds in view of Jones" (p. 3). Simply stating that Reynolds shows a generic shift indicating mechanism acted upon by a plunger and that Jones teaches a shaft with an arcuate surface is not enough to show a motivation to combine the two references. "The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination." MPEP § 2143.01. Applicant therefore reiterates that there is no motivation to combine Reynolds with Jones to suggest the claimed invention.

Moreover, the plunger 144 in Reynolds does not act as a shift "indicator" per se as implied by the Examiner. Instead, the only "indication" conducted by the plunger 144 is a biasing force that changes the tactile feel of the transmission by resiliently urging the bushing member 114 counterclockwise when the transmission is released by the operator (col. 7, lines 21-34; Figure 8).

Jones also recognizes that a spring biased pin 88 may be included to provide tactile feedback to the operator (see, e.g., col. 7, lines 15-21; Figure 3); thus, this component, rather than the auxiliary shift rail 110, groove 122 and sensing member 138, correspond with the plunger 144 in Reynolds. There is absolutely no reason to incorporate the groove 122 and the sensing member 138 (which form a two-position sensor 132) of Jones into the plunger 144 of Reynolds because one of ordinary skill in the art would have viewed the groove 122 and sensing member 138 as components that are appropriate for a shift rail, not the plunger 144 or any detent mechanism. Both Reynolds and Jones use a spring-biased plunger or pin to provide a tactile indication of a shift position, but nothing in Jones remotely suggests using the engagement/disengagement of the sensing member 138 and the groove 122 to indicate a position of an interlock.

Jones uses the state of the sensor 132 only to command a shift of an operator 142 into a higher or lower range (col. 7, lines 46-50 and col. 8, lines 27-31), but indication of the shift position itself is conducted in Jones only by the reaction force in the spring-biased pin 88. Similarly, indication of the shift position is conducted in Reynolds only by the spring biasing force of the plunger 144. Because neither Reynolds nor Jones even recognizes using a detent switch of any kind to indicate a shift position, and because of the reasons explained in the Appeal Brief, the final rejection of claims 11, 13-16 and 19-28 is improper and should be withdrawn.

Respectfully submitted,

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**CERTIFICATE OF MAILING**

I hereby certify that this appeal brief (in triplicate) is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to Mail Stop Appeal Brief – Patents, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 12<sup>th</sup> day of March, 2004.

  
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Beth A. Beard